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The Solicitors' Journal

[Established 1857.] [Registered as a Newspaper.]

VOL. LXXVII. No. 33 [Pages 577 to 592]. Saturday, August 19, 1933. Published Weekly. Price One Shilling.

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Current Topics.

Law and Logic.

In a celebrated case, the late Lord Halsbury, when faced with the argument that a certain result logically followed from given premises, answered that English law is not logical. In the connection in which the expression was used the statement of the Lord Chancellor excited a good deal of surprise; but as a general proposition there can be nothing clearer than this, that, in many departments of English law, it is difficult, if not impossible, to discover any logical basis. Take as an example the effect in law of things done on a Sunday. The other day a question was raised as to the propriety or legality of an inquest which had been held on a Sunday. It would seem clear on the old authorities that no legal proceedings may competently be initiated, or carried out, on a Sunday. According to "Blackstone," "no proceedings can be had, or judgment can be given, on the Sunday." By a statute of Charles II persons are forbidden to exercise any wor'dly labour, business, or work of their ordinary calling on Sunday, or any part thereof, works of necessity and charity only excepted—a statute which has given rise to innumerable questions regarding the true meaning of the expression "their ordinary callings," and which, nowadays, may be said to be almost a dead letter. The Bills of Exchange Act, 1882, offers another instance of illogicality with regard to Sunday, for, while it makes Sunday a non-business day for the purposes of the Act, it also provides by s. 13 that "a bill is not invalid by reason only that it is ante-dated or post-dated, or that it bears date on a Sunday." Yet again, while service of process on a Sunday has been decided to be absolutely void, service of certain other notices has been held to be good; thus, a notice under 6 & 7 Vict., c. 18, s. 4, in connection with the registration of voters was held to have been validly served on a Sunday; so too has a notice to quit been considered by a county court judge to be good when given on a Sunday, English law thus offers a fine field for the scoffer to make merry over its attitude to Sunday, but somehow we contrive to wrestle along fairly comfortably despite the gaps in the logical structure of our legal system.

The "Tote" in Scotland.

A full bench of seven judges in the High Court of Justiciary in Edinburgh has recently held, by a majority of five to two, that "Tote" betting in dog-racing enclosures and clubs in Scotland is illegal. In a previous note on the matter (76 Sol. J. 909), commenting on *Shuttleworth* v. *Leeds Greyhound Association and Others* [1933] 1 K.B. 400, we pointed out that in *Strathern* v. *Scottish Greyhound Racing Co.* (1930), S.L.T. 419, S.C. (J.) 24, "Tote" betting on a greyhound track was held lawful in Scotland while forbidden in England, though the construction of the same statute was involved in each case. The case just heard in Edinburgh, *Procurator-Fiscal of Glasgow* v. *Albion Greyhounds (Glasgow) Ltd.*, presumably overrules *Strathern's Case*, and, whether rightly or wrongly decided, at least brings the interpretation of the law on both sides of the border into harmony. The puzzle judges have had with the "Tote" as to whether each subscriber bets with all the other subscribers, or with the proprietors of the "Tote," or with both, or with neither, is fully apparent from the above cases, and *Attorney-General* v. *Luncheon and Sports Club Ltd.* [1929] A.C. 400. As we pointed out (76 Sol. J. 805), Lord Russell firmly ruled in *Ellesmere* v. *Wallace* [1929] 2 Ch. 1, that there can be no more than two parties to a bet. In the *Sports Club Case* the House of Lords held that the subscribers to the "Tote" did not bet with the proprietors. The members apparently differed as to whether the subscribers betted with each other, but that issue was not necessary for the decision. In commenting on this case in Edinburgh, Lord Anderson observed: "The nature of totalisator transactions was a matter of fact as to which members of the House of Lords had no special qualification to speak." Possibly some member of the House of Lords may hereafter retort that, on the application of the law governing any matter of fact, the House had authority which neither Lord Anderson nor anyone else could gainsay. It was not necessary either in the *Shuttleworth* or *Albion Cases* to decide whether the subscribers to the "Tote" betted *inter se*, but in another case heard at Edinburgh the same day as the *Albion Case* and by the same bench, *Procurator-Fiscal of Glasgow* v. *Russell*, turning on the Glasgow Police Act, 1892, it was held by Lord Anderson and the majority, apparently dissenting from the House of Lords in the *Sports Club Case*, that the subscribers to the "Tote" betted with the proprietors. The comment of a greyhound racing official that: "The decision again emphasises the urgent need for our very confused betting laws being put in order. Lawyers themselves do not know where they stand on many points," may perhaps be regarded as apposite.

Disposal of Security for Statute-barred Debt.

An argument in favour of an extension of county court jurisdiction is afforded by recent proceedings at Nottingham in *In re Fraser, deceased*. Under the testator's will (which was proved in July, 1913) his daughter and one Pain were appointed executrix and executor, and the daughter was also sole beneficiary. The estate was sworn at £3,696 gross, and £1,145 18s. net, but the testator owed £2,502 to Dunnicliffe and Smith, Limited, which company held as security 100 ordinary shares in Turney Bros., Limited, £250 4¼ per cent.

first mortgage debenture stock of the Mazawattee Tea Company, Limited, and 225 preference shares of Waring & Gillow, Limited. In 1926, the testator's daughter (being the holder of debentures of Dunnicliffe and Smith, Limited) had appointed Pain as receiver, and he was afterwards appointed receiver for the holders of second debentures. The company had ceased to carry on business, but had never been wound up, and (apart from £45 10s. in the possession of the receiver) the only asset was the debt from the above estate. As this debt was statute-barred, the testator's daughter now applied for (1) a declaration that she was entitled to the securities held by Pain, as receiver for debenture-holders; (2) an order that Pain, as co-executor with her under the will, should concur in transferring the securities to herself as sole beneficiary; (3) payment of £1 as damages for wrongful detention of the securities. The respondent's case was that (*a*) as receiver, he was aware of a liability to the company (in 1913) of £2,502, which (with interest at 4½ per cent.) would now amount to £8,000; (*b*) he was prepared to deliver up the shares, if adequately indemnified. His Honour Judge Hildyard, K.C., held that the debt was no longer recoverable, and that the daughter was entitled to the shares. An order for transfer was accordingly made, with costs out of the estate. In view of the amounts involved in the above case, it is anomalous that, in common law matters, the same judge has such limited jurisdiction.

Wife's Earnings as Separate Estate.

Any allegation that married women are the spoiled darlings of the law should be disproved by a recent decision of the Chief Registrar of Friendly Societies, who was required to consider the circumstances in which a wife may claim savings from her housekeeping allowance. The facts appearing from his report were that (1) a wife had opened an account in her own name at the Liverpool Savings Bank, where the sum of £222 ultimately stood to her credit; (2) she had possessed £18 when married, but had since received most of her husband's wages; (3) by reason of economical management, and taking in lodgers, she had saved the first-named amount. The wife's case was that (*a*) these savings were from her personal allowance; (*b*) the husband, having acquiesced for many years in her keeping the account in her name, could not now claim the money. The husband denied that the wife had ever had a personal allowance, and therefore claimed the whole amount in the bank. The chief registrar held that only £37 was due to the wife, and regretfully ordered the balance to be transferred to an account in the name of the husband. This decision (unjust as it may seem) is correct in law, as appears from the decided cases on this topic, which were reviewed in a "County Court Letter" (under the above title) in our issue of the 24th October, 1931 (75 Sol. J., 721). See also "Wives' Claims to Husbands' Assets" (77 Sol. J. 536).

Confiscation of Rents of Insanitary Property.

A correspondent to a recent issue of *The Architects' Journal* writes as follows: "Presumably the owners of the foul pens (slum houses) receive rent money from the miserable occupants. If government has the right to regulate new building development with regard to density and sanitation, there can be no objection to a very simple scheme that would do much to solve the problem of our slums, i.e., confiscation of rent money for insanitary property by the local authority." The slum problem is at the moment one of such importance and difficulty that no suggested remedy should be turned down without examination. But the above remedy seems to be based on the supposition that property only remains insanitary because the owners find it remunerative to allow it to do so. This, of course, is far from being universally true. The operation of the Rent Restriction Acts, which prevent the landlord getting possession in order to demolish, is, as has been pointed out before, the cause of the continued existence of many slums. Moreover, the foulest slums remain because the housing authorities naturally desire the best tenants on their re-housing estates, and it is quite true to say that thousands of houses which, if once put into decent repair, would be fit for habitation for many years to come, have been unnecessarily demolished while no hand is raised to assist the most miserable occupants of the foulest pens of all. It will be realised too that this suggested scheme in effect merely substitutes one landlord for another, viz., the local authority for the present owner. It would do nothing to further the demolition of the properties in question. The Rent Restriction Acts would still operate and the local authorities would have no further powers than they already have to demolish the property. It seems rather that this suggestion would be a practical inducement to the local authorities not to concentrate on clearance operations but to go on drawing the rents, as some in fact have already done for several years before actually carrying out a confirmed improvement scheme. The better authorities, indeed, the majority, it is believed, would resist this temptation, but it is certain that it would not act as an incentive to slum clearance operations or make easier the task of the housing authorities. Nor does it seem reasonable to suppose that the force of public opinion would be appreciably stronger to further the clearance of slums if this idea were to be adopted, save only so far as the dispossessed owners might be able to exert their influence to prevent the authorities from continuing to draw rents from the confiscated properties.

Judicial Criticism of "the Last Opportunity."

Amid the great increase of actions for negligence which has followed on the equally great increase in the volume of motor traffic, the doctrine of the "last opportunity" has been the great stand-by of the King's Bench Division. It comes therefore almost as a surprise to hear any criticism levelled at it by a judge of that division. Du Parcq, J., in *Baker* v. *Styles* (as yet unreported) made some very pertinent observations on its use as an absolute criterion in these cases. Ever since *British Columbia Electric Railway* v. *Loach* [1916] 1 A.C. 719 it has been the custom wherever there has been a collision between any two moving objects on land to apply this test, "who had the last opportunity to avoid the collision by the exercise of reasonable care?" Whoever had that last opportunity and failed to take it must be regarded as the one to blame and the person legally liable for the resultant damage. Du Parcq, J., pointed out that baldly stated like this it is not enough, indeed he went on to say that much which has been said about the last opportunity "is quite wrong." His lordship put the hypothetical case of a person riding a motor cycle at great speed along a road, quite unable to stop in time if the occasion should arise. Suppose that someone decided to cross the road, misjudging the pace of the oncoming vehicle; as his lordship put it, "is the rider of that cycle entitled to say, 'I have put myself in a hopeless position, you must keep out of my way'?" The answer to the question is, of course, that he is not so entitled. It is true that the person crossing has the last opportunity to avoid the accident, he need not cross, but it would be absurd to say that he is responsible for the accident. The hypothetical case put by his lordship was similar to the facts of the case before him, and he held that the plaintiff motor cyclist was not entitled to succeed against a motorist who had been injudicious enough to cross the road at the moment he was approaching at an excessive speed. It is to be hoped that this lead will be followed, for it would be very dangerous if the tendency to apply the rule of the last opportunity as an absolute test were allowed to continue unchecked. Perhaps some day the Admiralty rules applied in similar maritime cases will be adapted to collisions on land.

Admissibility in Subsequent Proceedings of Jurymen's Evidence.

THE recent cases of *R.* v. *Thomas* [1933] W.N. 189, and *Ras Behari Lal* v. *The King-Emperor* (77 SOL. J. 571) raise this very interesting question: how far is it open to a convicted prisoner to utilise on appeal the evidence of a juryman in order to prove misunderstandings or irregularities at the trial on the part of individual jurymen or of the jury as a whole? The question in *Thomas's Case* arose in this way: the appellant had been convicted of sheep stealing at Merioneth Sessions, and as a ground for his appeal he alleged that two jurors did not understand English sufficiently well to follow the evidence or understand the speeches of counsel or the summing up—a state of affairs important enough one would have thought to have come to light at a much earlier stage. It appeared that at the trial the evidence was given partly in English and partly in Welsh, the oath having been administered in English and an interpreter being present throughout. The immediate (and, as it turned out, the only) question for the Court of Criminal Appeal was whether affidavits of the two jurors that they did not understand English sufficiently well to enable them to follow the proceedings could be admitted. The court, for reasons which will appear hereafter, held that they could not.

The general position with regard to the admissibility of such evidence can best be considered under two main heads: (*a*) evidence of what took place in the jury room; (*b*) evidence of misunderstanding or misconception of what took place in court.

(*a*) The rule here is quite definite: evidence cannot be given of what took place in the jury room. The earlier cases reveal that a jury's verdict may often have depended literally on the toss of a coin. In one eighteenth century case a decision was reached by "hustling halfpence in a hat"; in another the inability of the jury to make up their minds caused them to draw the names of six of their number and delegate the making of the decision to them. The rule we are discussing appears in 1805 in *Owen* v. *Warburton*, 1 Bos. & P. (N.S.) 326 (a civil action, it will be noted, and indeed most of the authorities on this point are concerned with juries in civil actions, but are none the less applicable, it is conceived, to juries in criminal trials). There the jury, after hours of dispute, decided to reach a verdict by drawing by lot; two pencils of unequal length were secured, the longer to be for the plaintiff, the shorter for the defendant; the longer was drawn and a verdict was given in the plaintiff's favour. The collective eccentricity of a jury is clearly not a purely modern phenomenon. Not unnaturally the defendant sought to upset such a verdict, but the court refused to allow him to put in an affidavit of a juryman that the verdict was decided by lot. The same was held in *R.* v. *Willmont*, 30 T.L.R. 499, where the facts were equally unusual: the clerk of assize had visited the jury in their room and was asked by the jury certain questions, which he answered, a discussion taking place. It was held on appeal that evidence from the jurymen to prove these facts was inadmissible; but as the clerk's report could be admitted the conviction was quashed.

The most modern statement of the rule occurs in *Ellis* v. *Deheer* [1922] 2 K.B. 113, where at p. 117, Bankes, L.J., says: "The court will never admit evidence from jurymen of the discussion which they may have had between themselves when considering their verdict or of the reasons for their decision, whether the discussion took place in the jury room after retirement or in the jury-box itself . . . When once a verdict has been given it ought not to be open to an individual juryman to challenge it or to attempt to support it if challenged." And Atkin, L.J., at p. 121, gives the reasons for the rule, viz., to secure finality of decisions and to protect the jurymen and prevent their being exposed to pressure to explain the reasons which actuated them.

(*b*) "The rule does not exclude jurymen from swearing as to what took place in open court, but only as to what took place in their private room or the grounds on which they found their verdict," (*per curiam* in *Roberts* v. *Hughes*, 7 M. & W. 399). But even this evidence is only allowed in special circumstances. The question was fully considered in *Ellis* v. *Deheer*, *supra*. In that case the jury had retired to consider their verdict; on their return they found the jury box occupied by another jury, and only the foreman and two or three of the original jury could get into court whilst the foreman delivered the verdict; the remainder stood behind the box out of sight and out of hearing. The foreman for some reason not apparent delivered a verdict which was not at all in accordance with their unanimous decision. In subsequent proceedings the court admitted an affidavit of jurors to the effect that they did not hear the verdict delivered and did not assent to it, and as a result a new trial of the action was ordered. The rule excluding evidence of what took place in the jury room had no application, since the evidence proffered concerned not the incidents of the jury's deliberation but something that took place after their return to court. But that it can only be in very special circumstances that such evidence of misunderstanding of the verdict delivered in court can be given by a juryman is clear: Willes, J., in *Raphael* v. *Bank of England* (1855), 17 C.B. 161, at p. 174, says: "it does not lie in the mouth of a juryman who hears what passes and says nothing to come afterwards and say that he understood and meant something altogether different." So in *Ellis* v. *Deheer*, *supra*, Bankes, L.J., said: "When a verdict is delivered in the sight and hearing of all the jury without protest their assent to it is conclusively inferred." The learned judge goes on to indicate when such evidence as we have been discussing is admissible, by saying that, "there is no such presumption where some of them did not hear it delivered." At this point the result seems to be that the presumption is irrebuttable when the verdict was delivered in the jury's "sight and hearing"; rebuttable in other cases, even, for example, where delivered in their "presence." (See per Atkin, L.J., at p. 120.)

In *R.* v. *Thomas* the conclusion of the Court of Criminal Appeal was in accordance with the general trend of the above-cited authorities: the affidavits of jurymen after the case had been duly brought to a close that they did not fully understand the English language could not be admitted. Lord Hewart, in giving the judgment of the court, relied on the judgments of Willes, J., in *Raphael* v. *Bank of England*, and Bankes, L.J., in *Ellis* v. *Deheer*. He also indicated that in the court's view the facts made it impossible for them to allow the affidavits to be read; for, as the case was one of felony, every juror must have been sworn in the prescribed form in the English language.

In *Ras Behara Lal* v. *The King-Emperor*—the other case with reference to which these remarks originated—Lord Atkin, in delivering the judgment of the Judicial Committee of the Privy Council, doubted the validity of the reasons given by the Court of Criminal Appeal for their decision in *Thomas's Case*. The facts in the Privy Council case were, for our purposes, almost identical. There had been a conviction for murder in India, and it was subsequently alleged and proved that one of the jurors did not understand English, in which language some of the evidence was given, and the speeches of counsel and the judge's charge were delivered. The Privy Council had no difficulty in deciding that the conviction could not stand, for the effect of the incompetence of the juror was to deny the accused an essential part of the protection accorded to him by law. In considering the decision given in *Thomas's Case*, Lord Atkin pointed out that the question of a juror's competence to understand was not a question which invaded the privacy of the discussions in the jury room; nor could he agree that any presumption of assent by all the jurors to a verdict given in their presence was decisive of or, indeed,

relevant to the question. The real objection was not that the juror did not assent to the verdict, but that he so assented without being qualified to assent, i.e., without being able to understand and give a true verdict according to the evidence. And, at least so far as *R.* v. *Thomas* decided that no evidence was admissible after verdict to establish the inability of a juror to understand the proceedings, the Privy Council definitely disagreed with it.

If it is desired to reconcile the two decisions it may be suggested that on the facts this is possible: for in the Privy Council case evidence of the incompetence was forthcoming *aliunde* as well as from the jurors themselves; further, as has been mentioned, the Court of Criminal Appeal rested their decision partly on the particular facts of *R.* v. *Thomas*. Nevertheless there does seem some divergence of principle: broadly speaking, the decision of the Privy Council appears to be founded on the principle (with which none will disagree) stated in Lord Atkin's reported words that "finality is a good thing but justice is a better." Equally it is respectfully submitted there is much substance in Lord Hewart's statement that "it needs little reflection to see how wide the door would be opened if the contrary doctrine [i.e., the doctrine permitting jurymen to give such evidence] were to prevail." As the matter stands, the decision of the Court of Criminal Appeal is authoritative in England, though possibly it would not be rash to say that the point is in some degree academic since the likelihood of a similar question often arising must be far from great.

Costs.

REGISTERED LAND.

We have been asked by a correspondent to deal with the question of costs in relation to registered land, and it is proposed to consider this subject now. Before dealing with the question of costs itself it will perhaps be convenient to review briefly the various steps taken in connection with registered land.

Registration of land had been compulsory in the County of London since the beginning of the century, and one of the objects of the Land Registration Act, 1925, was to see whether or not during the ensuing ten years registration would become generally popular. Since the passing of the Act compulsory registration applies, in addition to the County of London, to land in Eastbourne and Hastings. Judging by the number of compulsory registrations which have been effected, it seems that by 1935 there will be very good grounds for making all land in the Kingdom liable to compulsory registration, and in that case there will be a drastic alteration in the remuneration of solicitors, so far as conveyancing work is concerned, for the scale of fees chargeable in respect of registered land is necessarily very much lower than in the case of unregistered land.

Application is made for registration by lodging the documents and the appropriate forms at the Land Registry, and applicants are granted a title under four separate headings, namely, an absolute title, a good leasehold title, a possessory title and a qualified title. A grant of an absolute title has the effect of more or less guaranteeing officially the title of the applicant, and is granted chiefly in the case of freehold property. The grant of a good leasehold title means that the title of the lessee is guaranteed, but that H.M. Land Registry has not investigated the title of the lessor. A possessory title guarantees the title subsequent to the first registration, but all persons acquiring an interest must investigate the title prior to registration. Qualified titles, as their name implies, are good except to the extent of the qualification appearing on the land certificate.

Subsequent transfers of and charges on the property may be effected by a simple form of document and on payment of the requisite Land Registry fees, to which further reference will be made in a later article.

With these brief introductory notes we can pass on to the subject of solicitors' remuneration. This is regulated by the Solicitors' Remuneration (Registered Land) Order, 1925, made on the 18th December, 1925, pursuant to the Act, and the General Order of 1932 increasing the scales of charges by 20 per cent. as from the 1st December, 1932.

No scale fees are provided for the first registration of freehold or leasehold land, and this work will be charged in detail in accordance with the fees prescribed by Sched. II of the General Order, 1882, relating to non-contentious work, to which reference has previously been made in these notes.

Similarly, the charges for the conversion of a possessory or qualified title into an absolute or good leasehold title will be made according to Sched. II. Further, where charges are transferred for value and the same solicitor who acted in the matter of the original charge acts again in connection with the transfer, then his fees will be by way of item remuneration.

The charge for negotiating a sale, purchase, or mortgage will be made, as in the case of unregistered land, according to the scale prescribed in Pt. I, Sched. I of the General Order, 1882, and the same will apply in the case of sales conducted by public auction.

It will be seen that a considerable amount of work in connection with registered land is remunerated according to the General Order of 1882, but in the case of all completed transfers on sale, or charges or mortgages of registered land, or transfers of a registered charge or sub-mortgages, the remuneration will be according to a special scale prescribed by a schedule to the Order. There is one exception, namely, where the land is registered with a possessory or qualified title and the title outside the register is investigated, in which case the whole of the remuneration will again be charged according to Sched. II of the General Order, 1882.

The scale of fees for transfers on sale, charges, etc., is as follows, calculated on the value of the land or the amount of the charge: For the first £1,000, 15s. per cent., with a minimum of 30s.; for the second and third £1,000, 10s. per cent.; for the fourth and fifth £1,000, 5s. per cent.; for the sixth and each subsequent £1,000 up to £10,000, 4s. per cent.; and for each subsequent £1,000 up to £100,000, 2s. per cent. The above scale is exclusive of the 20 per cent. increase. As in the case of transactions connected with unregistered land and remunerated according to Pt. I of Sched. I, General Order, 1882, transactions exceeding £100,000 are charged as for £100,000, and fractions of £100 under £50 are reckoned as £50, whilst fractions of £100 over £50 are reckoned as £100. Thus, if registered land is sold or mortgaged for £500 then the solicitors' scale fee will be £4 10s., whilst if registered property is purchased for £3,525 then the charge will be £22 13s.

The remuneration prescribed by the schedule does not include disbursements, etc., but it does include all searches, attendances on and correspondence with the Land Registry, and all other work which, in the case of unregistered land, is covered by the remuneration prescribed by the General Order, 1882, Sched. I, Pt. I.

There is a similar rule to that in the case of unregistered land relating to the same solicitor acting for the mortgagor and the mortgagee, and where, in the case of registered land, the same solicitor acts for the registered proprietor of the land and also for a person taking a charge thereon, then he is entitled to the scale charge as the solicitor acting for the person taking the charge and one-half of that allowed to the proprietor's solicitor up to £5,000, and a quarter on any excess.

Similarly, the solicitor may, before undertaking the business, elect by notice in writing to be remunerated according to Sched. II of the General Order, 1882, instead of by reference to the scale charges.

Where the solicitor acts for several parties having distinct interests he is entitled to an additional charge of three guineas in respect of each party after the first. This three guineas is not subject to the 20 per cent. increase.

Contract Carriages under the Road Traffic Act.

It was at one time complacently assumed that there was a ready way out of the obligation imposed by the Road Traffic Act of having a road service licence in respect of buses, and that was to bring into existence some sort of a contract. The effect of this was hoped to be to remove the vehicle from the categories of stage and express carriages into the category of contract carriages which do not require to have such a licence. After a certain number of cases these assumptions and hopes have been belied.

Section 61 of the Act of 1930 is curiously drafted. Sub-section (1) (*a*) and (*b*) contain definitions of stage and express carriages ; (*c*) then proceeds to define contract carriages thus : " Motor vehicles carrying passengers for hire or reward under a contract expressed or implied for the use of the vehicle as a whole at or for a fixed or agreed rate or sum " ; there follows a proviso which is not here material ; and then comes sub-s. (2) : " It is hereby declared that where persons are carried in a motor vehicle for any journey in consideration of separate payments made by them whether to the owner of the vehicle or to any other person the vehicle in which they are carried shall be deemed to be a vehicle carrying passengers for hire or reward at separate fares whether the payments are solely in respect of the journey or not : Provided that a vehicle used on a special occasion for the conveyance of a private party shall not be deemed to be a vehicle carrying passengers for hire or reward at separate fares by reason only that the members of the party have made separate payments which cover their conveyance by that vehicle on that occasion . . ."

The first case on the interpretation of these clauses was *Birmingham and Midland Motor Omnibus Co.* v. *Nelson* [1933] 1 K.B. 188. The facts there were, persons at various places on the Southern Railway were able to get a ticket entitling them to travel by the Southern Railway to Basingstoke, then by the Great Western Railway to Snow Hill, Birmingham, and then by bus to Cadbury's Bournville factory, which they looked over, and were then taken home again by the same means. The appellants provided the buses at Birmingham by arrangement with the Great Western Railway. It was contended that the buses came within the definition of contract carriages in s. 61 (1) (*c*), and also that the proviso to sub-s. (2) applied as it was a private party indulging in a special occasion. All these contentions were rejected by the Divisional Court, and it was held that sub-s. (2) applied, so that a road service licence was necessary.

Osborne v. *Richards* [1933] 1 K.B. 283, was a somewhat similar case. There the appellant let the buses to the Taunton Football Club for a fixed sum, and the club used them to convey supporters to the ground. Individual fares were collected by the appellant and handed over to the club, but it was held that these arrangements did not make the buses contract carriages.

Further consideration was given to the proviso to sub-s. (2), and in particular to the words " special occasion " in three cases reported together in 49 T.L.R. 437, namely, *Miller* v. *Pill*, *Pill* v. *Furse*, and *Pill* v. *Mutton & Son*. In the first of these a Mr. Rowe hired a bus to take eight people to Looe one Sunday, but it was held that this was not a private party or a special occasion. In the second case it was held that a weekly market at Launceston, and in the third case it was held that a cattle market held on the second, fourth and fifth Tuesdays of the month, were not special occasions.

In the recent cases of *Westminster Coaching Services Ltd.* v. *Piddlesden*, and *Hackney Wick Stadium Ltd.* v. *Piddlesden* (1933), 49 T.L.R. 475, the first appellants hired to the second appellants buses to convey patrons to and from the Stadium. No extra charge was made, and on leaving the Stadium return tickets were given to the patrons in exchange for the outward tickets issued. It was held that, although no money could be earmarked as paid for the bus ride, yet the buses were not contract carriages.

These cases show how the section of the Act has to be read. At first sight it seemed that the process was to start with the definition in sub-s. (1) (*c*) ; out of that a large class was carved by sub-s. (2) ; and the proviso to sub-s. (2) then reinstated a certain portion in the definition again. But it would now appear that that is to put too wide a meaning on the words, and in fact Avory, J., in the *Stadium Case*, says that sub-s. (2) overrides the definition. In other words the definition may be treated as non-existent, and the net result is that a contract carriage is a vehicle carrying a private party on a special occasion under a contract for the use of the vehicle as a whole.

Company Law and Practice.

The Russian Banks again.

The legal profession of this country has one ground, at least, on which it can express its gratitude for the experiment now being conducted in Russia ; the nationalisation of the Russian banks has given rise to many legal questions of doubt and difficulty, some of which are of particular interest to the company lawyer. The professed object of this nationalisation was, according to the preamble to the first nationalisation decree, which was dated the 14th December, 1917, to eradicate banking speculation and liberate the workers, peasants and labouring population from exploitation by banking capital ; the student of politics or history is more concerned with this than the lawyer, but nevertheless the readers of this column may not consider the space wasted which refers to this object.

The most recent decision is one of Maugham, J., *Re Russian Bank for Foreign Trade* [1933] 1 Ch. 745, where his lordship followed the decision of Bennett, J., in *Re Russian and English Bank* [1932] 1 Ch. 663. The judgment is, however, an interesting one, and the case will, I think, repay a certain amount of time spent upon it. Let me say at once that the question to be determined was whether or not the Russian Bank for Foreign Trade should be wound up, that the winding up petition was a creditor's petition, and that the debt on which it was founded was disputed. With these few preliminary observations I will turn to the material sections of the Act, which ought to be before us when we consider the facts.

Part X is the material part of the Act ; it has the general heading of " Winding up of Unregistered Companies." Its first section, s. 337, defines at some length the expression " unregistered company " used in that part of the Act. It excludes companies within the meaning of the Act, limited partnerships registered in England or Northern Ireland, certain classes of railway company and (s. 337 (3)) a partnership, association or company which consists of less than eight members and is not a foreign partnership, association or company. With these few exceptions the phrase includes any partnership, whether limited or not, any association and any company. Section 338 is the operative section, for it provides that any unregistered company may be wound up under the Act, though it goes on to provide that such winding up must be a compulsory winding up, and cannot be voluntary or subject to supervision. The grounds for winding up are given in s. 338 (2), and are as follows :—

(i) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs ;

(ii) if the company is unable to pay its debts ;

(iii) if the court is of opinion that it is just and equitable that the company should be wound up.

It is interesting to compare these grounds with the grounds set out in s. 168, which deals with winding up of companies within the meaning of the Act : (ii) and (iii) are the same as s. 168 (5) and (6), which are the sub-sections of most frequent

application : (i) in s. 338 (1) (*d*) takes the place of four separate heads in s. 168, namely (*a*) a special resolution of the company resolving that it be wound up by the court, (*b*) default in delivering statutory report or holding statutory meeting, (*c*) the company not commencing business within a year of incorporation, or suspending its business for a year, and (*d*) reduction of number of members below two or seven as the case may be. None of these four heads could well be applied to an unregistered company.

It will be remembered that s. 169 sets out certain states of fact in which a company is to be deemed to be unable to pay its debts, and s. 338 (*e*) contains corresponding provisions for unregistered companies, though they are not identical. Thus, there is in the later section a provision for the making of the three weeks' statutory demand, but it may be served by leaving it at the company's principal place of business, or by delivering it to the secretary or some director, manager or principal officer of the company or by otherwise serving it in such manner as the court may approve or direct. These last words make it clear that the service may be effected in some manner not expressly provided for by the section, and that the court has a discretion to approve such service after the event, though its directions were not taken in the first instance.

The other states of fact set out in s. 169 are substantially reproduced in s. 338 (*e*), which contains, however, one additional paragraph. This is to the effect that unregistered companies are to be deemed to be unable to pay their debts if an action has been instituted against any member for any debt or demand due or claimed to be due from the company, or from him in his character of member, and notice in writing of the institution of the action has been served on the company (in the same way as the statutory demand referred to above can be served), and the company has not, within ten days after service paid, secured or compounded for the debt or demand, or procured the action or proceeding to be stayed, or indemnified the defendant against the action and his costs, etc., relating thereto.

So far the statutory provisions to which I have referred have been part of the old law, but there is one provision which ought to be mentioned which is new law (when the word "new" is mentioned in this connection it must be given a fairly wide construction, for in less than three months the Companies Act, 1929, will have been in operation for four years). Section 338 (2) provides that where a company incorporated outside Great Britain which has been carrying on business in Great Britain ceases so to do, it may be wound up as an unregistered company under Part X of the Act, notwithstanding that it has been dissolved or otherwise ceased to exist as a company under or by virtue of the laws of the country under which it was incorporated. It may be asked what the distinction is between s. 338 (1) (*d*), which says that an unregistered company may be wound up if the company is dissolved, and s. 338 (2) to which I have just referred. Section 338 (2) seems to give an entirely fresh ground for winding up, namely, that, where a company incorporated outside of Great Britain, which has been carrying on business there ceases to do so, it may be wound up because it has so ceased. The wording of the section is not happy, but this seems to be the correct interpretation to be put upon it; presumably whether or not it has been dissolved, though this latter point is perhaps open to question. There is a good deal said with regard to this sub-section in *Re Russian and English Bank* [1932] 1 Ch. 663, but, as the winding up order there was made under s. 338 (1) (*d*), the discussion cannot be regarded as being as conclusive as it might have been if the sub-section had been actually applied.

Now we may turn in more detail to the *Russian Bank for Foreign Trade*. It was established in Russia during the last century as a company with limited liability, and in the year 1909 it started to carry on business in London, and filed in that year with the Registrar of Companies the particulars requisite under s. 274 of the Companies (Consolidation) Act, 1908 (now included in Pt. XI of the Companies Act, 1929, s. 343 *et seq.*). Among those particulars required to be filed is the name and address of a person or persons resident in Great Britain authorised to accept on behalf of the company service of process and of any notices required to be served on the company; and the winding up petition in the case we are now considering had been served on the persons whose names and addresses had been so filed. The bank was not within the exception contained in s. 337 (3), in that it consisted of eight or more members until the first nationalisation decree to which I referred at the beginning of this article, and was therefore an unregistered company within the meaning of Part X of the Act, and, if all other circumstances were favourable, liable to be wound up under the Act.

One rather interesting fact emerges at the beginning of Maugham, J.'s judgment, and that is this, that the effect of the Soviet legislation has to be considered in each case, and the tribunal before which the question is raised must come to its own conclusion on the evidence before it. This is the view expressed by Lord Wright in the case of *Lazard Brothers & Co.* v. *Midland Bank Limited*, when it was before the House of Lords. The case in the House of Lords is not yet reported, but the report in the court below is to be found in [1932] 1 K.B., at p. 617; the reason for this is that foreign law is a question of fact to be decided on the evidence put forward, and *non constat* that the evidence will be identical in every case. As a consequence of this, his lordship examines at some length the various decrees and other legislation of the Soviets, and deals with the expert evidence given. I need not deal with these at any length, but it may be noticed that by the first nationalisation decree all existing banks were amalgamated with the State bank, and their assets and liabilities taken over by it. By a decree made a few weeks later the share capital of the banks was transferred to the State Bank "on the basis of complete confiscation." In January, 1920, the State Bank itself was abolished. His lordship held that, if it were material to determine whether the bank at the date of the presentation of the winding up petition was a juristic person, his opinion was that it was not such a juristic person.

He then went on to point out that in any case the provisions of its statutes could not be complied with, and that, if it did exist as a legal corporation, the bank was no more than a legal conception, but that it had creditors in this country; and that, in his opinion it had ceased legally to carry on business and that, if the petition were properly presented, it was just and equitable that it should be wound up. A further question was discussed as to whether the petitioner's debt, which was disputed on behalf of the persons *de facto* carrying on the London branch of the bank, could properly found a petition. The dispute was on two grounds, but Maugham, J., though stating that he was not satisfied that the petitioner was a creditor, followed Bennett, J., in the earlier case, and made the order. Those who are interested in international law will find a good deal to interest them in this case apart from the particular points to which I have here referred.

Mr. Frederick William Boorman, solicitor, of Gravesend, left estate of the gross value of £23,272, with net personalty £20,927. He left £100 to his "faithful" clerk, Hilda Grace Harling, "as a token of my recognition and appreciation of her long, loyal and conscientious services in my employ"; £300 in trust for his "faithful" servant, Minnie Travis; property to which he had become entitled owing to the death of his son, Cyril, intestate, to his wife for life, with remainder to the Incorporated Soldiers' and Sailors' Help Society; and the residue of the property in trust for his wife for life, and then £2,500 to his brothers and sisters and the residue of the property between Dr. Barnardo's Homes, Gravesend Hospital, Pinnocks Charity, Gravesend, for an addition to St. Thomas's Almshouses, and the Church Army, for the benefit of ex-Service men.

A Conveyancer's Diary.

Restrictive Covenants again.

I had not intended to return to this subject, at any rate at present, but I have had personally, and sent on to me by the Editor, some letters which, so far as I can, I should like to answer.

I may say that I do not find that any of our correspondents differ from me in the conclusions at which I have arrived on this rather difficult subject, as expressed in my recent diaries, but some ask for further explanations which, for the most part, merely entail a reiteration of what I have already said. I do not mean that as implying any disrespect to our correspondents, but only as indicating that I think I have, in fact, covered the ground, although not perhaps too thoroughly.

One correspondent puts me in a quandary. He says that he has for a number of years acted for a land company which has developed an estate, exacting from the purchaser of each plot restrictive covenants without any corresponding covenants being entered into by the company. There is, it appears, no question of a building scheme being established. The company has only one plot left, and our correspondent is worried about it. He sees that once that last plot is conveyed, the company will have no right to enforce the covenants against the other purchasers, and there will be no right to enforce the covenants by the purchasers *inter se*. That undoubtedly is so unless the benefit of the covenants by other purchasers has been assigned to one or more subsequent purchasers of plots at the time of the conveyance to the latter.

Our correspondent thinks, however, that there may be some "moral duty" upon the vendor company to "preserve the restrictions."

I ought to say at once that I cannot answer questions upon specific matters arising in practice, and am not, in any case, in a position to advise with regard to a "moral duty," especially when I see no reason to think that any such "duty" exists. My advice to the correspondent in question is that, if he feels any doubt about the position of his client in the matter, he should take counsel's opinion, and, should he do so, I hope that he may find my articles of use in drafting the case to advise.

Another correspondent who writes to me personally, but takes the precaution of giving no address, and signs "Enquirer," is a little more difficult. He tells me that I have "skirted round" *Ives* v. *Brown* [1919] 2 Ch. 314 and "dodged the decision" in *Lord Northbourne* v. *Johnston & Son* [1922] 2 Ch. 309, and is so unkind as to remind me that I once expressed the view that those cases were not likely to be followed.

My answer to that is, that in commenting upon those authorities, Romer, L.J., said, "In neither of those two cases did the learned judge intend to decide, nor did he in fact decide, that a covenantee who has parted with all the land for the protection of which the covenant was imposed can thereafter confer upon an assignee of the covenant the right to enforce it: *Re Union of London and Smith's Bank, Ltd.'s Conveyance* [1933] 1 Ch. 611, at p. 634. That being so, those decisions are, for all practical purposes, of little importance.

So far as *Ives* v. *Brown* is concerned, the report is defective, and "the learned judge does not, however, appear to have addressed his mind to the question whether the legal personal representatives of a covenantee can enforce a restrictive covenant unless they are possessed of land that the covenant was intended to protect, and that question does not appear to have been argued" (per Romer, L.J., in *Re Union of London and Smith's Bank Limited's Conveyance*, at p. 633).

That seems to dispose of *Ives* v. *Brown*.

Then, as regards *Lord Northbourne* v. *Johnston*, I agree that it is possible that that case may be an authority for the proposition that a personal representative of a covenantee who has assented to the land benefited by the covenant vesting in a devisee, may still hold the benefit of the covenant as a bare trustee for the devisee and may assign that benefit to the devisee after having vested the land in him. That may be so, but it is contrary to the principle established in the other authorities to which I have referred.

Then "Enquirer" deals at some length with my Diary of 5th August, in which I suggested that a "building scheme" established after 1925 might be enforced, although there was no registration of the restrictions involved in it. My correspondent "sees no difficulty in registering restrictions in such a case," and proceeds to show how it may be done by production of an estate plan and particulars and conditions of sale, whether by public auction or private treaty. He adds that "anyone really interested will soon find out the names of the purchasers of the other plots on the estate."

Now, in the first place, I would remind the reader that the L.C.A., 1925, only provides for the registration of "a covenant or agreement . . . restrictive of the user of land." My correspondent airily speaks of "registering restrictions." The Act does not provide for the registration of "restrictions," but of a "covenant or agreement" restrictive of the user of land. In the case of a building scheme, if there is any "covenant or agreement" at all it is to be found in the conveyances of those against whom registration is to be effected, and it is not likely that a purchaser of one plot will be able to induce the purchasers of all the other plots to produce their conveyances in order that he may register the "covenant or agreement" against them. Even if that could be done the registration would, as I suggest, be ineffectual because the restriction placed on the user of the land affected is not one which arises out of or depends upon a "covenant or agreement," but out of or upon an equitable right based upon a "reciprocity of obligation" imposed by reason of the circumstances in which the various purchasers acquired their plots.

I am well aware that it is difficult to establish a "building scheme," and that it is seldom done, but I venture to hazard the opinion that, if it can be done, the L.C.A., 1925, does not apply whether the scheme was created before or after the commencement of that Act.

Landlord and Tenant Notebook.

New Grounds for Possession of Controlled Premises: 3. Alternative Accommodation.

Under s. 3 of the new Act the availability of alternative accommodation, hitherto a ground for possession only if the landlord was able to prove something about his own needs, entitles him to possession subject to the court, as always, being satisfied that it is reasonable to make the order. Those parts of the section which are concerned with alternative accommodation deal with what is to be proved and how it is to be proved in turns. An offer from the local housing authority to provide accommodation is the simplest method of getting possession (the Minister has told us that the new Act and the new housing campaign are associated). When this is not forthcoming, the position is more complex, and for the sake of convenience I set out in tabular form a summary of what has to be established. A minimum of three conditions must be satisfied, and in the table given below 1A and 3A are alternatives to 1 and 3.

1. Controlled premises.

1A. Premises to be let on terms affording reasonably equivalent security of tenure.

2. Suitable as regards proximity to work.

3. Rent and size similar to those of premises in neighbourhood, provided by housing authority for people of similar needs.

3A. Suitable as regards size and character to means and needs of tenant.

Another modification of the old provisions is worth noting: the landlord may prove either that alternative accommodation is available or that it will be available on a given date on which the order is to take effect. This does not entirely dispose of *Nevile* v. *Hardy* [1921] 1 Ch. 404, in which Peterson, J., held that under the 1920 Act the alternative accommodation must be shown to be available at the time of the hearing; for if it was but is no longer available, no order can be made.

Probably, as before, the first condition stated above will be in practice the most difficult to satisfy. Many claims have in the past failed merely because the alternative accommodation proved to exist could not be shown to afford equal security of tenure. One must, of course, allow for the fact that in those days the duration of the principal Act, in theory defined, was known to be indefinite in fact, and that now it seems reasonable to assume that all control will end on Ladyday, 1938. The likelihood of a house to which the principal Acts apply (condition 1, *supra*) being available is, of course, remote; it may, however, occur, e.g., where some sub-tenant of controlled premises has given up possession, or where a landlord has obtained possession under an order made on the ground of non-payment of rent: See the provisoes to s. 2 (1) of the 1923 Act. The alternative condition can, as suggested, now be satisfied by proof of an offer of a five years' term.

Proximity to place of work is, of course, an old friend, and any question arising out of this provision must be one of fact. It reminds us that a Divisional Court once held, in *Chiverton* v. *Ede* [1921] 2 K.B. 30, that if the tenant "took lodgers," the alternative accommodation must suffice for tenant and lodgers. It is doubtful whether this decision is still an authority; it was based on the notion that "tenant" included all who usually and properly resided with the tenant.

The conditions I have called 3 and 3A again give rise to issues of fact only, but certain differences between the two requirements should be noted. The personal needs of the particular defendant and his family are a relevant factor in each case, but his actual means need only come under review in 3A. Size (or "extent," as the Act says) is a consideration in both cases, but the "character" is relevant only in 3A. In 3 the defendant is made one of a class, defined by reference to needs as regards extent only; the alleged available accommodation is then compared in two respects, namely, rental and extent, with accommodation provided by local authorities. In 3A, his means and his needs and the extent and the character of the accommodation are all considered.

Now as to means of proof. In theory, the landlord may be able conclusively to prove his case by producing one single document, a certificate signed by the housing authority for the area in which the premises claimed are situated, certifying that the authority will by a specified date provide suitable alternative accommodation for the tenant. It should be noted that the authority must be the housing authority for the *same* area. Housing authority and area are defined in s. 16 (1) by reference, i.e., a local authority for the purposes of Part III of the Housing Act, 1925, and the area for which that authority has powers to supply the needs. It follows that the plaintiff cannot, even if the premises he claims are near a municipal boundary, prove his case by means of a certificate from a neighbouring authority. Perhaps, however, this discussion is purely academic; it seems doubtful whether a certificate of this kind will ever issue. True, the conditions by which alternative accommodation is defined do not apply, but I take it that authorities will pay some regard to them. Thus, for one thing, housing authorities are not in the habit of granting five year leases. For another, they may well hesitate to rush in where county court judges have trod so warily, and to decide, without adequate machinery for arriving at the conclusion, that premises and terms offered by themselves amount to suitable alternative accommodation. There is, however, perhaps a deliberate omission of any direction to housing authorities as to what amounts to suitable alternative accommodation; the section reads, as I have mentioned, as if they were not to be bound by the factors which a county court has to review; and if a certificate is given, I do not think *certiorari*, or any other remedy, will assist the tenant.

Next, a plaintiff may prove part of 3 by means of a certificate. In this case, be it remembered, the accommodation must be "in the neighbourhood," but may be provided "by *any* housing authority." The matters so evidenced may be the extent of accommodation the authority provides for tenants with families of a specified number, and the rent it charges for dwelling-houses of that extent. This provision may prove very useful in London, where there are, normally, two "housing authorities" in every district, and consequently in every adjoining district, namely the county council and the borough council (Housing Act, 1925, s. 80 (1) (6)).

Our County Court Letter.

THE VALIDITY OF PRICE MAINTENANCE AGREEMENTS.

(*Continued from* 77 SOL. J. 265.)

THE rights of price-cutting tobacconists were recently considered at Sheffield County Court in *Pashley* v. *Ferner*, in which the claim was for £3 8s. 4d. as damages for non-delivery —or money paid upon a consideration which had failed. The plaintiff's case was that (*a*) having bought a consignment of cigarettes (for cash) he found there was a deficiency in the number of packets; (*b*) he therefore returned the consignment, which the defendant had since retained, without refunding the money. The defendant's case was that (1) he had supplied cigarettes for a year to the plaintiff's assistant, who had represented that he came from a legitimate retailer; (2) having discovered that this was a trick, the defendant had purposely sent a consignment in which there was a shortage; (3) the plaintiff (in spite of his having returned the goods) was not entitled to his money back, as he had jeopardised the right of the defendant (as a wholesaler) to obtain supplies from the manufacturers. His Honour Judge McCarthy gave judgment for the plaintiff for £2 17s. 3d., without costs, regretting that there was no power to order the plaintiff to pay the costs of the defendant, who had acted honestly.

THE CONTRACT OF AGISTMENT.

(*Continued from* 77 SOL. J. 441.)

IN the recent case of *Johnson* v. *Kerr*, at Stone County Court, the claim was for £18 for ley of cattle, and there was a counter-claim of a like amount for trespass by cattle. The plaintiff's case was that (*a*) in September, 1930, the defendant offered £9 for the "eating" of one of plaintiff's fields, (*b*) as there was a danger of the cattle falling into the River Trent, the defendant asked for them to be put into another field, (*c*) the plaintiff agreed, on condition that he should receive the ordinary rate for ley, (*d*) from the 6th October, 1930, to the 23rd March, 1931, the defendant had five stirks in the field, and was, therefore, liable for 3s. per week per animal for twenty-four weeks. The defendant's case was that (1) for twelve years he had rented a field adjoining that of the plaintiff, whose cattle had continually trespassed, (2) the defendant would nevertheless not have made a claim against a neighbour, and the plaintiff (by way of compensation for the trespass) had allowed the defendant to have the ley free of charge. His Honour Deputy Judge Burne was not satisfied that the agreement was for the payment of money, and judgment was, therefore, given for the defendant on the claim, and for the plaintiff on the counter-claim, with costs.

MORTGAGEES' RIGHT TO POSSESSION.

A question of administration of assets recently arose at Leicester County Court, in *Newman* v. *Green*, in which the claim was for possession of a house and for £94 14s. mesne profits. The plaintiff's case was that (1) he was receiver for the second mortgagee of the estate of the Earl of Lanesborough, deceased, (2) the house was let for three years to the defendant, who had paid no rent, (3) £71 10s. (part of the amount claimed) had been wrongly credited—as rent—to the defendant, who was a legatee of the estate. The defendant's case was that (1) in consideration of fifty years' faithful stewardship, he had been left a legacy of £500 and an annuity of £150, (2) these were comprised in a deed of assignment to a bank, (3) he and his wife should, therefore, not be disturbed, as he would eventually receive £500. His Honour Judge Haydon, K.C., made a consent order for possession in one month, and gave judgment for the amount claimed, with costs.

In Lighter Vein.

The Week's Anniversary.

If ever there was a fighter at the Bar, it was poor Richard Wallop. Born in 1616, he was called at the Middle Temple in 1646. By the year of the Restoration, he had attained sufficient recognition in the profession to be elected a Bencher of his Inn of Court. Unfortunately, however, his politics were anti-Royalist and during the next two reigns no important state trial was really complete unless he held a brief against the Crown. With such a reputation, it is hardly surprising that he was in constant collision with Jeffreys when he was Lord Chief Justice, and whenever he appeared in court, scene after scene occurred. Thus, during the trial of Braddon, the Chief took occasion to remark: "Mr. Wallop is so impetuous in the worst of causes," and after a few remarks had been exchanged between Bench and Bar, observed in conclusion: "There is such a heat in this cause, I wonder whence it should come; I am sure it is not from the honesty of it." In the same case he said: "Nay, Mr. Wallop, be as angry as you will, you shall not hector the court out of their understandings." Till the age of eighty, Wallop fought on at the Bar, and then, at long last, he was rewarded with the office of Cursitor Baron of the Exchequer, but he lived to enjoy it less than eighteen months, dying on the 22nd August, 1697.

Favours to Come.

As the great fire case has dragged its slow length along, a little hilarity has occasionally assisted its progress. Particularly quaint was the evidence with regard to gifts of turkeys sent at Christmas by some of the accused to various fire brigade chiefs, and the letter of thanks received from one of them: "I am sorry I could not report more fires to you, but it has been one of our worst years for years. Perhaps I may be able to send you more this year." After all, however, the spirit of this epistle is no more strange than that of a custom once regularly kept up at the Old Bailey in the days when Calcraft was the Newgate executioner. On the last day of the Sessions, this genial official used to present himself to the judges as they sat at table after dinner. He was given a glass of wine and, to use the words of Serjeant Ballantyne, "this he drank to the health of his patrons, and expressed with becoming modesty, his gratitude for past favours and his hopes for favours to come." And, after all, does not the legal profession bemoan the decline of litigation or discord among neighbours? As d'Aguesseau, the French Chancellor, once said in connection with some suggested law reforms: "The length and number of lawsuits confer on gentlemen of the long robe their wealth and authority; one must continue, therefore, to permit their infant growth and everlasting endurance."

The Immortal Horse.

Even to-day, the horse still holds his own in legal favour. His Honour Judge Roope Reeve recently took a holiday from judgment summonses to act as judge at the Burley Show of New Forest ponies. At the Dublin Horse Show, the Ladies' Challenge Trophy was won by Mr. Justice Wylie's horse "Lop Gilt," ridden by Mrs. Baggally, and clearly the elegance of the turn-out allowed no ground for appeal. So, though the judges no longer ride the circuits—Mr. Justice Day was, I think, the last to do so—they have not renounced their former companions. One of the most devoted equestrians of the old days was Mr. Justice Byles. When he was at the Bar, his horse used to be brought every day at three o'clock precisely to his chambers in King's Bench Walk, and whatever his engagements, he would take a ride in Regent's Park. The Temple christened the animal "Bills," and the spectacle of "Byles on Bills" was a constant source of amusement, especially as poor "Bills" was not an elegant example of horseflesh. To his master's clerk he was known as "Business," so that callers could be truthfully informed that "Mr. Byles is out on Business." Lord Chief Justice Erle had thirty horses in his stable, many of them past work, and as pampered as the late Lord Birkenhead's, but neither he nor Lady Erle could make up their minds to turn away any of their old friends.

Reviews.

The Law Relating to Personal Injuries. By Frederick George Neave, LL.D. (Lond.), Solicitor, in collaboration with Grange Turner, M.A. (Cantab.), of the Inner Temple, Barrister-at-Law. Second Edition. 1933. Crown 8vo. pp. xv. and (with Index) 134. London: Sir Isaac Pitman and Sons, Ltd. 6s. net.

In the first edition of this work there were no references to authorities. That has been remedied, and the present edition contains a substantial table of cases and also a list of statutes. The whole of the text has necessarily been revised, and now presents in succinct and useful form an epitome of the law relating to personal injuries, including assault and battery, injuries caused by animals, negligence, libel, defamation and false imprisonment. Altogether an attractive survey of this difficult branch of the law of tort.

Slater's Mercantile Law. Eighth Edition, 1933. By E. W. Holland, O.B.E., M.A., M.Sc., LL.D., and R. H. Code Holland, B.A. (Lond.), both of the Middle Temple, Barristers-at-Law. Demy 8vo. pp. xlii and (with Index) 629. London: Sir Isaac Pitman & Sons, Ltd. 7s. 6d. net.

The fact of this being the eighth edition stamps "Slater" as a standard work which has effectively proved its own value. The present edition has been carefully revised and enlarged and brought completely up-to-date. It contains full references to the latest decisions and to all relevant statute law. It is officially recommended for professional examinations, such as those of the Institute of Chartered Accountants, and for the use of students in advanced classes in schools and those sitting for the examinations at the Royal Society of Arts, the London Chamber of Commerce, etc. The volume, which is a substantial one, covers a wide range of subjects, including a general review of the law of contract and of commercial relations. It deals also with different phases of the law touching mortgages, bills of sale and other forms of security. One part is devoted entirely to bankruptcy and bankruptcy practice, and among other subjects arbitration, patents, designs and trade marks, and passing off, are dealt with, and one very interesting feature of the book is to be found in Part 7, in which are set out précis of a number of selected leading cases touching each section of the book. The

table of cases covers twenty pages and the appendices which are added set out the Factors Act, 1889, and the Sale of Goods Act, 1893.

Law in Literature. By Lord FINLAY. Demy 8vo. pp. 20. London: Sir Isaac Pitman & Sons, Ltd. 1s. net.

In his reading at the Middle Temple, Lord Finlay compressed into the small compass at his disposal a very remarkable survey ranging from the trial in "Alice in Wonderland" to the plays of Galsworthy. Of omissions there are few, Surtees and "Serjeant Bumptious" being the most surprising. Perhaps also Lord Bowen's poems might have deserved notice, even if Lord Erskine's novel did not. However, a library cannot be contracted into a dozen pages, and we hope that one day Lord Finlay will expand his subject on a wider canvas and create more legal literature.

Company Law. By H. GOITEIN, LL.D., of Gray's Inn, Barrister-at-Law. 1933. Demy 8vo. pp. xx and (with Index) 327. London: Sir Isaac Pitman & Sons, Ltd. 7s. 6d. net.

This book provides a thorough grounding in the elements of company law for the student entering upon his career, be it in law, accountancy or commerce, so as to provide him with a general practical knowledge of the subject. The groundwork of the book is the Act of 1929, which is reviewed in more or less popular style, avoiding technicalities as far as possible. It shows evident signs of most careful composition, and all important legal *dicta* are supported by up-to-date case law. The Companies Act, 1929, appears by way of appendix, and we do not hesitate to say that, apart from its value to the student, the learned author has provided a useful volume for both lawyer and layman desirous of refreshing his memory by reading up anew the subject of company law as it stands to-day.

Books Received.

A Guide to the Rent and Mortgage Interest Restrictions Acts, 1920 to 1933. By W. E. WILKINSON, LL.D. (Lond.), Solicitor of the Supreme Court. Fifth Edition. 1933. Demy 8vo. pp. xvi and (with Index) 257. London: The Solicitors' Law Stationery Society, Ltd. 9s. 6d. net.

The Rent Acts, 1920 *to* 1933. By H. HEATHCOTE-WILLIAMS, M.A., of the Inner Temple, and of the Western Circuit, Barrister-at-Law. 1933. Demy 8vo. pp. xlvii and (with Index) 238. London: The Property Owners' Protection Association. 6s. net.

Withers on Reversions. Second Edition, 1933. By ANDREW HENRY WITHERS, of Lincoln's Inn, Barrister-at-Law, assisted by WALTER SOMERVILLE WIGGLESWORTH, of the Inner Temple, Barrister-at-Law. 1933. Medium 8vo. pp. lxxviii and (with Index) 533. London: Butterworth and Co. (Publishers), Ltd. 45s. net.

The British Year Book of International Law. 1933. Fourteenth Year of Issue. Royal 8vo. pp. vi and (with Index) 246. London: Humphrey Milford, Oxford University Press. 16s. net.

The Pharmacy and Poisons Act, 1933, *Explained.* By H. GLYN-JONES, of the Middle Temple, Barrister-at-law. 1933. Crown 8vo. pp. (with Index) 117. London: Eyre & Spottiswoode (Publishers), Ltd. 8s. 6d. net.

The Accountants' Magazine. Vol. XXXVII, No. 368. August, 1933. Edinburgh and London: William Blackwood and Sons, Ltd. 1s. net.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited. London and Liverpool.]

Obituary.

MR. F. H. ADAMS.

Mr. Francis Hamp Adams, solicitor, of St. Martin's-lane, W.C., died at Crouch Hill, on Saturday, 12th August, at the age of sixty-four. Mr. Adams was admitted a solicitor in 1895.

MR. E. GERRISH.

Mr. Edward Gerrish, M.A. (Oxon), solicitor, head of the firm of Messrs. Edward Gerrish & Co., of Bristol, died at Bristol, on Tuesday, 15th August. He was admitted a solicitor in 1887, and was at one time a member of the firm of Messrs. Fussell & Co. Mr. Gerrish had been solicitor to the Bristol Waterworks Company for forty-two years, and only resigned early in the year.

MR. J. G. LAWSON.

Mr. J. Grafton Lawson, solicitor, of Dundee, died at his home at Lochee, on Tuesday, 8th August, at the age of sixty-three. He was sole partner in the firm of Messrs. J. Grafton Lawson & Co. until a few years ago, when Mr. Daniel Carmichael entered into partnership with him. Mr. Lawson was secretary of the Dundee branch of the National Farmers' Union of Scotland, and he held a similar appointment with the Scottish Federation of Merchant Tailors.

MR. W. J. SMITH.

Mr. W. J. Smith, solicitor, of Coleraine, died on Thursday, 10th August, at the age of about seventy-one. Mr. Smith was admitted a solicitor in 1889, and in recent years had associated with him in partnership his only son, Mr. W. H. Smith.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

The Solicitors Act, 1933—Draft Rules.

Sir,—Your correspondent "Experienced" in stating "the cash book ruling suggested is useless" proves that he is *in*experienced. The ruling, if entries are properly made, attains the object of the Act, which is to ensure that the solicitor shall know at all times that he has in the bank all moneys in hand belonging to clients.

Your correspondent's four points are not necessary nor possible, and solicitors who do not understand accounts should hand them over to accountants who understand solicitors' accounts.

Full details concerning the use of the cash book ruling cannot be incorporated in correspondence in your valuable columns, but I shall be pleased to prove my statements (that the ruling covers the requirements) to "Experienced" or any one interested.

London, S.E., 14th August. CONSULTING ACCOUNTANT.

Mr. Reginald Anthony Colmer Symes, solicitor, of Scunthorpe, Lincs, left £23,652, with net personalty £16,288. He stated that he had built a hall and other rooms adjoining in High-street, Scunthorpe, for carrying on spiritual and social work among boys and young men attending his Bible Class and others, such premises being known as the "Keenhouse" and the organisation known as "The Keenites Society," and he desired his wife during her life to permit the members of the Keenites Society to use and occupy the said premises for so long as they may desire. Subject to specific bequests and his wife's interest he left his property to Bartholomew Theodore Priestman, The Rev. James Prowse, The Rev. William Talbot Hindley, and Richard Hudson Pope to be expended by them for the spiritual and religious welfare of boys and young men, members of his Bible Class, and the town of Scunthorpe generally, and he expressed the desire (but created no trust in the matter) that so far as possible they should follow the method of Christian work "that I have followed and should name their work 'The Keenites Society.'"

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Will—Construction—Scope and Effect of a Direction to Pay "all death duties whatsoever."

Q. 2785. A, by his will, made in 1903, bequeathed certain specific and pecuniary legacies free of duty, and after providing for certain annuities and devises of real property, free of all death duties, including estate duty, settlement estate duty, legacy duty and succession duty, all of which were directed to be paid out of the residuary personal estate; there followed a devise and bequest of his residuary estate unto his trustees to convert into money and thereout to pay funeral and testamentary expenses and debts and the legacies before bequeathed, and to provide for the said annuities *and pay all death duties whatsoever*; then to pay certain other legacies and to invest the residue upon the following trusts: During the joint lives of B and C to pay the income of one moiety of the residuary trust fund to B and the income of the other moiety to C, and after the death of such one of them, B and C, as should first die, to pay the income of the whole of the said fund to the survivor of them during his life. (1) On the death of A, in 1908, was legacy duty in respect of the shares of B and C on the income from the residuary estate payable by the legatees or out of the capital of the residuary estate? (2) On the death of B, in 1933, will the claim for death duty arising on B's death become payable out of the capital of the residuary fund or by C personally?

A. (1) Subject to the usual reservation that it is difficult to construe a will without seeing the entirety of it, we express the opinion that on the death of A the legacy duty in respect of the shares of B and C in the income of the residuary estate was payable by the legatees. The direction to "pay all death duties whatsoever" appears to be confined to all matters preceding that direction. If this was not the intention there would seem to be no object in separating the certain other legacies from those previously given. (2) We express the opinion that even if the direction to "pay all death duties whatsoever" had applied to the successive interests in the residue the claim arising on the death of B would be payable by C personally. Expressions directing the payment of "all death duties" are not sufficient alone to cover the payment of future duties; nothing save the very clearest intention to that effect expressed by the testator is sufficient to include such duties (*Re Beecham* (1923), 130 L.T. 558).

Will—Undivided Share in Realty—Assent.

Q. 2786. A testator acquired by conveyance, before 1926, a fractional share in certain freehold property, he being one of some twenty tenants in common. The property was originally acquired by several persons who pooled their money in order to purchase it. The personal representatives of the testator now desire to vest the benefit of this share in his devisee thereof by an assent. How should this be done in view of the fact that an undivided share of real estate can no longer be conveyed? Ought the assent to be made in respect of the fractional share of the proceeds of sale of the property if and when sold? We shall be much obliged if you will refer us to a precedent.

A. While an undivided share in land can no longer exist at law, the interest exists in equity, taking effect behind a trust for sale. The personal representatives can assent to the gift of this equitable interest and the assent need not be in writing as no legal estate is affected (A.E.A., 1925, s. 36 (4)). We suggest that the personal representatives should assent to the gift of the share of the net proceeds of sale and of the net rents and profits pending sale, and that the beneficiary should give notice of the assent to the trustees for sale. We regret that we cannot quote a precedent. It would probably be adequate if the personal representatives merely wrote a letter to the trustees for sale stating that they had assented to the gift and instructing them to account for the future to the beneficiary. If, as seems probable, the trustee is the Public Trustee no useful purpose would be served by communicating with him.

Nuisance from Cockroaches.

Q. 2787. A biscuit works erected separated only by back streets from blocks of dwelling-houses on three sides, due to the nature of the business, is infested by cockroaches and beetles which have multiplied in very large numbers, and at night move in large numbers to the adjoining dwelling-houses and shops, causing very great discomfort and danger to health to the occupants, and depreciation to business premises. Will you please say whether in your opinion—

(1) Is it a public nuisance in respect of which the local authority can take action?

(2) Have the occupiers and owners of the dwelling-houses private right of action?

If the former, the usual notice to abate under the Public Health Act would appear to be abortive, as the occupant of the biscuit works will probably be able to prove that he has done all in his power to abate the nuisance.

A. The question does not state how long the biscuit factory has been carried on as such, or whether there has been an increase in the number of cockroaches and beetles since the commencement of the operations of the biscuit factory. The facts are not comparable to those in *Bland* v. *Yates* (1914), 58 Sol. J. 612, in which an injunction was granted against a market gardener in respect of the maintenance of a manure heap, which was a breeding place for flies. The present facts appear to be governed by *Stearn* v. *Prentice Bros., Ltd.* [1919] 1 K.B. 394, in which a farmer failed to establish a cause of action, in respect of the invasion of his fields by rats, from the premises of bone manure manufacturers. Both questions are therefore answered in the negative.

Cancellation of Sale to Company.

Q. 2788. A.B. formed a private limited liability company for the purpose of taking over certain of his freehold properties and contracted with the company to sell the properties for a fixed sum. There was no contract by him to take shares to the amount of the consideration, but that was the intention. A.B. and J.B., his son, signed the memorandum and articles, one share each. The conveyance of the property was executed as an escrow. A.B. verbally applied for certain shares and they were allotted and the certificate sealed, but not handed over. Owing to certain circumstances, A.B. has changed his mind and desires to abandon the whole transaction. The purchase price of the land has not been paid, neither has the price of the shares. The name of A.B. has not been entered in the register in respect of the shares applied for. No return of the allotment of the shares has yet been made. All parties are willing to cancel the whole transaction. Presumably there is nothing to prevent the company and A.B. agreeing to

cancel the contract for sale and purchase as it has not been carried into effect. Can any difficulty arise on an agreement between A.B. and the company to cancel the application and allotment on the ground that the transaction amounts to a reduction in capital, bearing in mind that the shares were never issued and that A.B.'s name is not entered in the register in respect of these shares.

A. As no return of the allotment of shares has yet been made, the creditors of the company will not be misled into giving it credit on the faith of capital shown as paid up. The rights of creditors will therefore not be affected by the proposed cancellation, and the sanction of the court will not be required, even if the transaction be regarded as a reduction of capital. It hardly comes within this definition, however, as the transaction is inchoate on each side, and the company will, in effect, forfeit the shares for non-payment of calls—under a power doubtless reserved in its articles of association. The conveyance will similarly not come into operation, by reason of the non-fulfilment of the condition—viz., payment of the consideration by the allotment of shares. No difficulty will therefore arise on an agreement between A.B. and the company to cancel the whole transaction.

Statutory Trustees — Survival of Powers of — T.A., 1925, s. 18.

Q. 2789. A died in 1928, intestate, possessed of personal estate under £100. He was also joint owner with his wife, B, of a house value £500 subject to a mortgage. The purchase money of the house was found by the parties in equal shares. B died in 1933 (without having taken out representation to her husband's estate). Her will will be proved in due course by the two executors named therein. It is conceived that although after the death of A, B held the house as surviving trustee upon the statutory trusts and could not sell it until she had appointed a new trustee to act with her (except perhaps to a willing purchaser who might accept a title based upon the equities), the statutory trusteeship will now devolve upon her executors and, as there are two of them, they will be able to sell and make title as trustees for sale upon the statutory trusts. It is also conceived that as the legal estate will have vested in them by virtue of the grant of probate. it will not be necessary for them to assent to the vesting of the estate in themselves as statutory trustees. Any estate duty which may be payable on A's death will, of course, be paid upon an account C.1. We shall be glad to have your views as to the accuracy or otherwise of this contention.

A. We are in agreement with the views put forward by our subscribers. As to the power of the personal representatives of B to exercise the statutory trusts, see T.A., 1925, s. 18, sub-ss. (2) and (3). These personal representatives will be acting as trustees, and, as there are two of them, will be in a position to give a valid discharge for the purchase money: T.A., 1925, s. 14; L.P.A., 1925, s. 27 (2), as amended by L.P. (Amend.) A., 1926, Sched. As to the vesting of the legal estate and the absence of any necessity for any assent, see A. of E. A., 1925, s. 3 (1) (ii).

Co-owners—Survivor of Tenants in Common who is Absolutely Entitled to the Entirety in Equity by reason of the Will of the Deceased Co-tenant—Sale by Personal Representative of Survivor.

Q. 2790. In 1910, A and B became tenants in common of certain freehold property. A died in 1932, having by her will devised and bequeathed all her property to B and appointed B and X her executors. A's will was duly proved in 1933 by B and X. B has since died, having by her will appointed A and X her executors, and B's will has been duly proved by X as surviving executor. No assent or conveyance of the legal estate in the property has been made since the death of A. In view of the addition to s. 36 of the L.P.A., 1925, contained in the Schedule of Minor Amendments in the L.P. (Amend.) A., 1926, confirming that a survivor of joint tenants, who is solely and beneficially interested, can deal with his legal estate as if it were not held on trust for sale, it is presumed that B, having become the survivor of statutory joint tenants and solely and beneficially entitled to the property, his executor, X, can make a title to and convey the property to a purchaser in his capacity as personal representative, reciting in the conveyance the facts above and the effect of the transitional provisions of the L.P.A. as to the tenancy in common. Your views on this and as to whether a conveyance taken in the way suggested will give a purchaser a good title will be appreciated.

A. We agree that title can properly be made in the way suggested. The amendment of s. 36 of L.P.A., 1925, referred to in the question is not confined to the case of the survivor of joint tenants both at law and in equity. The power of disposition which B had as the survivor of joint tenants at law who is solely and beneficially interested devolves upon his personal representative: Emmet "Notes on Perusing Titles," 12th ed., vol. I, p. 393.

Mortgage—Vacating Receipt—L.P.A., 1925, s. 115—Upon which Document Receipt Should be Endorsed when Mortgage Effected by More than One.

Q. 2791. Various transfers to new trustees up to 8th April, 1919, when on that date mortgagor and mortgagees conveyed to a purchaser A.B., subject to the mortgage, and purchaser A.B. covenanted to pay principal and interest and the conveyance contained a proviso . . . "that the Mortgagees should henceforth hold the said hereditaments thereby assured freed and discharged from the respective provisoes for redemption contained in and subsisting under the several indentures of mortgage and transfers specified in the schedule thereto" (being the before-mentioned mortgage and transfers) "but subject to proviso for redemption following that is to say" and usual proviso for redemption follows. Various other transfers of mortgage (made supplemental to the conveyance of 8th April, 1919) to new trustees have been made from time to time since and various sums paid in reduction of the mortgage. A.B. is now paying off the mortgage, and the question arises as to upon which deed the statutory receipt should be endorsed by the mortgagees and your advice is requested.

A. It would appear that the conveyance of 1919 was, in effect, a new mortgage, seeing that there was a new proviso for redemption. We therefore suggest that the vacating receipt may properly be endorsed thereon. If this view is wrong and the conveyance is in a sense but part of the original mortgage, it is submitted that the receipt, if endorsed thereon, would be operative under s. 115 of L.P.A., 1925. Subsection (7) of this section provides that "where the mortgage consists of . . . more than one deed, it shall be sufficient for the purposes of this section, if the receipt refers either to all the deeds whereby the mortgage money is secured or to the aggregate amount of the mortgage money thereby secured and for the time being owing, and is endorsed on, written at the foot of, or annexed to, one of the mortgage deeds." Further, the receipt, even if placed on a wrong document, would not fail to be evidence of discharge for the purposes of L.P.A., 1925, s. 116.

Limitation of Equitable Estate—Effect of Transitional Provisions.

Q. 2792. In 1903, by a conveyance on sale, land was conveyed to three trustees, in fee simple, "Upon trust for such of A and B as shall attain the age of 21 years in equal shares as joint tenants." Although the fee simple estate was conveyed to the trustees, there were no words of limitation showing the estate to be taken by the *cestuis que trustent*. There was no limitation over. The purchase money was stated to have been provided by the trustees, who were the respective parents of

A and B. Both A and B attained the age of twenty-one years prior to 1925.

(1) Under the limitations of the deed and in the circumstances, did A and B take the fee simple estate in the property, or merely an estate for life?

(2) It is assumed that the vesting clauses of the Property Act operated to vest the estate in A and B without any further conveyance.

A. Re Tringham's Trusts; Tringham v. *Greenhill* [1904] 2 Ch. 487, which is, perhaps, the nearest analogous case, was overruled by *Re Bostock's Settlement; Norrish* v. *Bostock* [1921] 2 Ch. 469, and, as no stress was laid in that case on there being limitations over, the opinion must be given that, if there was no other governing words in the deed, A and B took either an equitable or legal estate for life only, according to whether there was or was not a declaration of use in favour of the trustees. Even if A and B took undivided shares, it is considered para. 4 of Pt. IV of the Transitional Provisions, introduced by the Amendment Act of 1926, operated to vest the legal estate in fee simple in A and B as tenants for life. Upon the facts stated, however, it does not appear that there are any trustees for the purposes of S.L.A., 1925.

Stamping Deeds under Finance Act, 1931, s. 28.

Q. 2793. Under the Finance Act, 1931, s. 28, conveyances and leases have to be stamped "Particulars delivered." In view of the provision that the document is not properly stamped and therefore not receivable in evidence unless bearing this particular stamp, we shall be glad if you will inform us whether either of the following documents require stamping in addition to the lease and original conveyance respectively: (*a*) Counterpart lease signed by the lessee; (*b*) Duplicate conveyance either signed by the purchaser or by all parties.

A. The opinion is given that a counterpart of a lease is not required to have such a stamp; and as to a duplicate conveyance, if it is a document which will in future be produced in evidence of a transfer on sale of a fee simple interest or of a leasehold interest to which the section applies (which could rarely be the case) it should have the stamp affixed, but if it is executed merely as evidence of covenants or reservations no such stamp is required.

Notes of Cases.

High Court—King's Bench Division.

J. E. Magraw *v.* **S. W. Lewis (Inspector of Taxes).**

Finlay, J. 26th July, 1933.

Revenue—Income Tax—Pension—Sum Deducted at Source in Respect of Debt of Pensioner—Gross Pension Subject to Assessment—Income Tax Act, 1918 (8 & 9 Geo. 5, c. 40), Sched. E.

Case stated under the Income Tax Act, 1918, s. 149.

At a meeting of the Commissioners for the Division of St. Martin-in-the-Fields, held on the 5th January, 1933, J. E. Magraw (the present appellant) appealed against an assessment made on him for the year ended the 5th April, 1932, under Schedule E, of the Income Tax Act, 1918, in the sum of £229 in respect of a pension payable in London by the Government of the Union of South Africa. On the appellant's retirement in 1929 from the service of the South African Government he was awarded a pension of £229 4s. a year. In 1930 he brought an action against the South African Government which was dismissed against him, with costs, which costs amounted to about £1,000. Since March, 1931, the appellant had lived permanently in the United Kingdom. Without the appellant's consent the South African Government made deductions from the monthly payments of pension of certain sums varying from £7 to £2 10s. a month on account of the costs of the action which the appellant was liable to pay to the South African Government. The sums so deducted from his pension for the year ended the 5th April, 1932, amounted to £51. Owing to the rate of exchange between South Africa and the United Kingdom the gross pension paid and payable to the appellant, before deduction of the sum of £51 on account of costs, amounted to £268 for the year ending the 5th April, 1932.

The appellant contended that the assessment on his pension should be reduced by the amount so deducted in respect of the costs and that he should be taxed only on the sum actually received. The respondent contended that the appellant was assessable in respect of the gross amount of pension paid in sterling. The Commissioners held that the deductions made by the South African Government in respect of the legal costs were not admissible deductions from the assessment under the Rules governing Schedule E of the Income Tax Acts. The appellant now appealed.

Finlay, J., said that he thought that the case was a clear one. It was due to the appellant to say that he (the appellant) obviously thought that he was suffering under some grievance, and he (his lordship) was not surprised that the appellant felt some sense of grievance, for he actually received one sum and was taxed on another. What the South African Government had done in substance was to insist that the appellant should apply a certain part of his income in liquidation of the debt in respect of costs due to the South African Government. He (his lordship) could only say that there was a line of cases, of which *Bruce* v. *Hatton*, 8 Tax Cas. 180, was one, against the appellant's contention. It was upon the pension that the assessment had got to be made, and the amount of the pension was in no way affected by the deduction which had been made in respect of the debt for costs. The appellant was taxed quite correctly on the amount of his pension, and the application of the pension did not matter. Costs against the appellant were not asked for.

Counsel: The appellant appeared in person; *R. P. Hills*, for the Crown.

Solicitors: *Solicitor of Inland Revenue.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

Warden and Scholars of New College, Oxford *v.* **Davison.**

Swift, J. 26th July, 1933.

Distress—No Notice given—Bailiff's Procedure inadequate to effect Distress—Alleged Sale of Distrained Chattels—No Title in Alleged Purchaser—Tithe Act, 1836 (6 & 7 Will. 4, c. 71), s. 81—Tithe Act, 1891 (54 Vict., c. 8), s. 2.

In this action the Warden and Scholars of New College, Oxford, claimed from Charles Davison, a farmer, an order for the delivery up of chattels and/or for damages for their alleged detention or conversion. On the 24th June, 1932, Judge Clements ordered that the high bailiff of Hythe County Court should distrain on certain lands for the sum of £67 18s. 6d. due from the defendant to Merton College, Oxford, in respect of tithe rent-charges on the lands. He also ordered that the impounded goods should be offered for sale by tender. The plaintiffs said that on the 12th October an officer of the high bailiff impounded eleven heifers, which were purchased by the plaintiffs for £77. The plaintiffs alleged that the defendant had detained the heifers from them, and, alternatively, that he had converted them by removing them from the lands. The defendant denied all those allegations, and further pleaded that the bailiff had no title to the heifers which enabled him to transfer the property in them to the plaintiffs.

Swift, J., said that, first of all, he must ascertain what took place on the 12th October. According to the bailiff's account he went to the defendant's land, and, according to his

own evidence, he there saw fourteen heifers. There was nobody there. He said: "I did not touch one. I made a note in my book to the effect that there were fourteen heifers. I did nothing on the land. I said nothing to anybody about it. I came away." Was that distraining in point of law? He (his Lordship) thought that it was not. The bailiff was in no position to identify the heifers in any way, and he (his Lordship) was clearly of opinion on the facts of the case that there never was any distress levied. Having done that, the bailiff purported to sell those heifers to New College, Oxford. What he did was to sell an unascertained eleven out of the fourteen. There was nothing to identify the eleven which he purported to sell, and it was quite clear that the property in them never passed to New College. It seemed to him, therefore, that the college never did get the property, and they certainly never got possession of those eleven heifers. He thought, therefore, that as a matter of fact the plaintiffs had failed to prove a distress, which was the foundation of their title. They had failed to prove a conveyance of the property in those heifers to them. Purely on the facts of the case he decided against the plaintiffs. With regard to the point of law involved, it arose on the construction of s. 81 of the Tithe Act, 1836, and s. 2 of the Tithe Act, 1891. No notice of any intention to levy a distress was given by the bailiff before he went down on the 12th October. After considering the two Acts, his Lordship said that it was quite clear that the owner of a tithe-rent could not distrain unless he had given ten days' notice. Judgment for the defendant, with costs. Leave to appeal was given.

COUNSEL: *D. B. Somervell*, K.C., and *G. Russell Vick*, for the plaintiffs; *Sir William Jowitt*, K.C., and *Ashton Roskill*, for the defendant.

SOLICITORS: *Metcalfe, Hussey & Hulbert; Edward F. Iwi.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

R. *v.* Robert Llewelyn Thomas.

Lord Hewart, C.J., Horridge and Humphreys, JJ.

3rd July, 1933.

CRIMINAL LAW—WALES—CHARGE OF SHEEP STEALING—JURORS' ALLEGED IMPERFECT KNOWLEDGE OF ENGLISH—AFFIDAVITS TO THAT EFFECT—COURT'S REFUSAL TO ADMIT.

This was the appeal against conviction and sentence of Robert Llewelyn Thomas, who was convicted at Merionethshire Sessions on the 4th April, 1933, of sheep stealing, and sentenced to twelve months' imprisonment with hard labour.

At the trial the evidence was given partly in English and partly in Welsh, an interpreter being present in court. On the present appeal counsel for the appellant sought leave to refer to affidavits by two of the jurors alleging that their knowledge of the English language was insufficient to enable them to follow the proceedings. He submitted that the affidavits should be looked at inasmuch as they related to matters that took place in open court and matters concerning the capacity of jurors to sit as jurors. For the Crown it was contended that the practice was well established that affidavits by jurors should not be received.

Lord HEWART, C.J., said that the only ground of appeal suggested was that two members of the jury did not understand English sufficiently well to follow the evidence or the speeches or the summing up. Counsel for the appellant had endeavoured to persuade the court that it ought to look at affidavits from two members of the jury showing that they did not sufficiently well understand the English language. In their (their lordships') opinion, they ought not to look at those affidavits. He was not going to review the mass of authority on that point. In *Ellis* v. *Deheer* [1922] 2 K.B. 113, Bankes, L.J., said, at p. 118: "When a verdict is delivered in the sight and hearing of all the jury without protest their assent to it is conclusively inferred." It needed little reflection to see how wide a door would be opened if the contrary doctrine were to prevail. The conviction must stand. They had come to the conclusion that, in all the circumstances, the sentence might properly be reduced to one of six months' imprisonment.

COUNSEL: *George Bankes* for the appellant; *J. Jones Roberts* for the Crown.

SOLICITORS: *Rhys Roberts & Co.*, for *Guthrie Jones and Jones*, Dolgelley; *Robert Griffith*, Blaenau-Festiniog, for the Crown.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

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Societies.

British Medical Association.

ANNUAL MEETING.

The annual meeting of this Association was held in Dublin this year. The representative body, which consists of delegates from the various divisions all over the country, debated several points on which the medical profession comes into contact with the law. One of these was a proposal that the Council should set up during the coming year a committee to discuss the law relating to abortion.

Dr. Helen Lukis, of Kingston-on-Thames, said that the matter was urgent for three reasons: the legalisation of abortion in certain foreign countries, especially Soviet Russia; the economic crisis, which had forced more women than usual to seek the services of abortionists; and the reluctance of juries, owing to the present uncertain state of the law, to convict in abortion cases. She considered that the Association should lead in such matters, and not be led.

Dr. L. A. Parry, of Brighton, whose writings on medico-legal subjects are well known to the Legal Profession, represented that the matter was extremely urgent. The law was in a very uncertain state, he said; it was governed almost entirely by ss. 58 and 59 of the Offences Against the Person Act, 1861, which made the procuring of abortion a felony punishable by penal servitude for life. It allowed no exceptions, and many high legal authorities declared it illegal to perform abortion even to save life or health. There existed no judicial pronouncement on the matter. The uncertainty had been made worse by the Infant Life Preservation Act, 1929, which had been passed to fill a gap in the law and to create the offence of murdering a child during the process of birth. This Act made it legal to perform a therapeutic abortion if the seventh month of pregnancy had been reached, with the sole object of saving the life of the mother; but since it laid down certain conditions under which therapeutic abortion might be carried out, the operation was presumably an offence under any other conditions. No one had as yet been convicted for therapeutic abortion in this country, but in France, where the law was very similar, two doctors had recently been sentenced to five years' imprisonment for performing what their colleagues had considered a perfectly

proper therapeutic abortion. Moreover, there was a considerable demand from sociologists, doctors, lawyers and others for some alteration of the conditions under which abortion might be procured, and many persons thought it should be allowed for economic and sociological reasons. The British Medical Association was the proper body to consider the matter.

Lord Dawson of Penn, the retiring President, agreed that the question was of serious importance, but doubted whether it was yet time to take official action. A great deal of quiet thought was, he said, being given to the subject and an alteration of values and of standards had taken place. Nevertheless, the present change in thought ran counter to previous long-established moral standards, and it was therefore as well to let thought move quietly to a certain point before setting up a formal enquiry. To appoint a committee at the present moment might hinder progress rather than help it. If a dozen people in a room started to discuss abortion, they felt a certain sense of conflict, and it was difficult for them to talk openly and frankly. It would be all the more difficult for a mixed body of doctors and lawyers to discuss the matter. The legal mind tended towards a stereotyped formula, and he doubted if lawyers would show the necessary flexibility of mind. Therapeutic abortion did not present any practical difficulty. Though the legal system of the country might not adapt itself in theory to changes in social thought, it adapted itself in practice; the sentences passed to-day were light compared with those passed twenty years ago.

Dr. C. O. Hawthorne denied that there was any ambiguity in the law as a matter of practice, for no doctor would hesitate to perform a therapeutic abortion if he judged it necessary, after consultation with an experienced colleague. It was not the duty of the medical profession to train the public mind in politics, morals or economy. If a committee of experts composed of all professions was necessary, it had no special claim on the Association and the people who wanted it should pay for it.

The representative body instructed the Council to consider and report upon the advisability of setting up such a committee.

Medical Men and Road Accidents.

Dr. J. W. Bone moved a resolution by Council that it was inopportune at the moment for the Association to ask the Government to be responsible for the emergency attendance and treatment given by medical men in all road accident cases. He reminded the meeting that the Council had been asked to take this action last year; it had decided that the moment was not opportune, but had been able to act in other directions. Lord Danesfort had been approached to insert into his Bill a clause providing for the payment of doctors; his Bill dealt with pedestrians only, but Lord Moynihan's Bill would secure what the Association desired.

Dr. W. Paterson, of Willesden, said that, in spite of the opinion of the Automobile Association that Lord Moynihan's Bill was an injustice to motorists, it actually lifted a heavy burden from a few thousand doctors and transferred it to 3,000,000 motorists, who could bear the cost easily.

Dr. S. Wand, of Birmingham, moved that the Council should persuade insurance companies to adopt the following procedure: The doctor should send his account direct to the company insuring the vehicle, and the company should remit the amount direct to him if on investigation it found that it was liable. A scale of fees should be agreed between the representatives of the companies and the Association. The Birmingham Watch Committee had, he said, agreed that where a policeman called in a doctor the doctor should be paid on the usual police card, and that particulars of the motorist, pedestrian and company should be supplied free. The Road Accidents Sub-committee of the Association had suggested the formation of a pool, but the companies had declined because, he believed, they were afraid that any payment might be taken as an admission of liability and also because the contract was with the doctor, and it was not desirable to alter its basis. Nevertheless, the companies had admitted that doctors were usually deterred, by the trouble involved, from pressing their legitimate claims for payment for first aid, and also admitted their liability for first-aid treatment when their clients were proved negligent. Birmingham thought that the matter could not be dealt with *en bloc*, but that it would be better to deal first with those cases where the companies admitted liability. The companies would be asked to agree that the doctor, having obtained particulars from the police, should send in his claim; they would then either deny that their client was negligent or pay him direct. It should not be difficult to add a clause to the Act protecting insurance companies who made these payments, and the Association's solicitor thought that no legal difficulty would be introduced. The average pedestrian who was knocked down found that when he had paid his lawyer he often had not very much left. He then decided to pay his regular doctor, but the doctor who had given first aid was often neglected.

In a paper on "Motoring and Health," read to the section of Medical Sociology, Sir William de Courcy Wheeler stressed the dangers of fatigue. He blamed the police for charging drivers with drunkenness on evidence of the flimsiest kind. A whiskey and soda before starting, confusion and horror at the moment of a serious accident, were taken together and interpreted as presumptive evidence of intoxication. He took a very serious view of the emission of poisonous gases in motor exhausts.

Rules and Orders.

The Juvenile Courts (Constitution) Rules, 1933, dated June 24, 1933, made by the Lord Chancellor under paragraph 1 of the Second Schedule to the Children and Young Persons Act, 1933 (23 & 24 Geo. 5. c. 12) for the Constitution of Juvenile Courts outside the Metropolitan Police Court Area and the City of London.

1. These Rules may be cited as The Juvenile Courts (Constitution) Rules, 1933.

2. These Rules shall come into operation on the 1st September, 1933.

3.—(i) The Justices acting in and for every petty sessional division shall in accordance with these Rules appoint from among their number justices specially qualified for dealing with juvenile cases to form a juvenile court panel, hereinafter called the panel.

(ii) Where a stipendiary magistrate exercises jurisdiction in the petty sessional division for which the panel is formed, he shall be *ex officio* a member of the panel.

4. The number of persons appointed to serve on the panel in any petty sessional division shall be such as the justices think sufficient for the juvenile courts in that division.

5. The first panel shall be formed by the appointment of justices in accordance with Rule 3 before the 1st November, 1933, and the members of that panel shall serve for a period of three years commencing on the 1st November, 1933.

6. Before the 1st November, 1936, and thereafter before the end of each period of three years a new panel shall be appointed in accordance with Rule 3.

7. A justice shall not be ineligible for appointment as a member of any new panel by reason of the fact that he has previously served as a member of the panel in the same or any other petty sessional division.

8. Every person appointed as a member of a panel in accordance with the foregoing Rules shall take office on the 1st November in the year of appointment.

9. If a vacancy in the panel is caused by the death or resignation of any member of that panel, the justices shall, as soon as may be practicable after the occurrence of the vacancy, appoint from among their number a justice to fill the vacancy, and any justice so appointed shall serve as a member of the panel until the end of the period for which the member he replaces was appointed.

10. The names and addresses of justices appointed to serve on the panel shall be notified to the Secretary of State by the Clerk to the Justices immediately after their appointment, and any additional appointment made to fill any vacancy shall be so notified.

11. The appointment of a panel, and the appointment of any justice to fill a vacancy in the panel, shall be made by the justices acting by a majority of the votes of those present and voting at a meeting of which at least seven days' notice shall be given to each justice acting in and for the petty sessional division.

12. The panel shall meet as often as may be necessary, and in any case not less frequently than twice a year, to make arrangements connected with the holding of juvenile courts and to discuss any question connected with the work of the courts.

13. Every juvenile court shall be constituted of not more than three justices from the panel, and shall include one man and, so far as practicable, one woman:

Provided that if at any sitting of the juvenile court the only member of the panel present is a Stipendiary Magistrate and he thinks it inexpedient in the interests of justice to adjourn the proceedings, he may sit alone.

14. The manner of selecting the members of the panel to sit in the juvenile court shall be such as the panel may determine.

15.—(i) Subject to the provisions of paragraph (v) of this Rule, the members of the panel in each petty sessional division

shall immediately after their appointment select one of their number to act as chairman of the juvenile court throughout the period for which the panel is appointed :

Provided that where in any petty sessional division there are two or more juvenile courts for different parts of that division the panel may select from their number a chairman for each court.

(ii) The selection of a chairman shall be made at a meeting of the panel by a majority of the votes of members present and voting at the meeting.

(iii) If at any time the justice selected in accordance with paragraph (i) of this Rule is not available to act as chairman of a juvenile court, the members of the court shall select one of their number to be chairman of that court.

(iv) If the office of chairman shall become vacant by reason of death, resignation or other cause, the panel shall select from their number a chairman to hold office for the remainder of the period for which the panel is appointed.

(v) If the panel are satisfied that in the circumstances it is not expedient to select a chairman in accordance with paragraph (i) of this Rule, the chairman of any juvenile court shall be such member of the court as the members of that court shall select.

(vi) The name and address of any justice selected as chairman in accordance with paragraphs (i) and (iv) of this Rule shall be notified to the Secretary of State.

16. The Interpretation Act, 1889,(*) shall apply to the interpretation of these Rules as it applies for the purpose of the interpretation of an Act of Parliament.

Sankey, C.

24th June, 1933.

*52–3 V. c. 63.

Legal Notes and News.

Honours and Appointments.

The King has been pleased, on the recommendation of the Secretary of State for Scotland, to approve the following appointments to take effect as from 1st October, 1933 : Mr. JOHN SWAN MERCER, O.B.E., Advocate, presently Sheriff Substitute of Lanarkshire at Glasgow, to be Sheriff of Lanarkshire in the room of Mr. A. O. M. Mackenzie, K.C., whose resignation takes effect as from 30th September, 1933 ; and Mr. JOHN RODGER HALDANE, Advocate, presently Sheriff Substitute of Ayrshire at Ayr, to be Sheriff Substitute of Lanarkshire at Glasgow in the room of Mr. John Swan Mercer, O.B.E., Advocate.

Mr. Justice MACKINNON has accepted the invitation of the Johnson Society to succeed Mr. J. A. Lovat-Fraser, M.P., in the presidential chair at the annual meeting at Lichfield on 30th September.

Professional Announcements.

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Wills and Bequests.

Mr. Thomas Norman Fisher, solicitor, of Kidderminster, left £6,806, with net personalty £5,411.

Mr. John William Smith, solicitor, of Weyhill, Hants, left £18,539.

STERILISATION COMMITTEE.

The Departmental Committee on Sterilisation have now finished hearing evidence, but they are still awaiting the completion of certain returns which local authorities have been asked to furnish. They have now adjourned for a short time, but they will meet again in September to settle their report, which they hope to complete by the end of October. A preliminary draft of the report is in course of preparation, but it has not yet been considered by the Committee, and statements purporting to forecast the Committee's recommendations are wholly unfounded.

A UNIVERSAL APPEAL

TO LAWYERS : FOR A POSTCARD OR A GUINEA FOR A MODEL FORM OF BEQUEST TO THE HOSPITAL FOR EPILEPSY AND PARALYSIS, MAIDA VALE, W.9.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement Thursday, 31st August, 1933.

	Div. Months.	Middle Price 16 Aug 1933	Flat Interest Yield. £ s. d	†Approximate Yield with redemption £ s. d
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	107⅞	3 14 3	3 10 1
Consols 2½%	JAJO	73¾	3 7 9	—
War Loan 3½% 1952 or after	JD	99⅜	3 10 2	—
Funding 4% Loan 1960-90	MN	110¾	3 12 3	3 7 9
Victory 4% Loan Av. life 29 years	MS	110	3 12 9	3 8 11
Conversion 5% Loan 1944-64	MN	116¼	4 6 0	3 4 5
Conversion 4½% Loan 1940-44	JJ	109⅝	4 2 1	2 19 1
Conversion 3½% Loan 1961 or after	AO	100	3 10 0	3 10 0
Conversion 3% Loan 1948-53	MS	97	3 1 10	3 4 2
Conversion 2½% Loan 1944-49	AO	93	2 13 9	3 1 3
Local Loans 3% Stock 1912 or after	JAJO	85¾	3 9 11	—
Bank Stock	AO	349½	3 8 9	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	75½	3 12 10	—
India 4½% 1950-55	MN	107	4 4 1	3 18 6
India 3½% 1931 or after	JAJO	83½	4 3 10	—
India 3% 1948 or after	JAJO	71½	4 3 11	—
Sudan 4½% 1939-73	FA	110	4 1 10	2 10 3
Sudan 4% 1974 Red. in part after 1950	MN	108	3 14 1	3 7 6
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	100	3 0 0	3 0 0
COLONIAL SECURITIES				
*Australia (Commonw'th) 5% 1945-75	JJ	106	4 14 4	4 7 0
Canada 3½% 1930-50	JJ	97	3 12 2	3 14 10
*Cape of Good Hope 3½% 1929-49	JJ	99	3 10 8	3 11 8
Natal 3% 1929-49	JJ	94	3 3 10	3 10 5
New South Wales 3½% 1930-50	JJ	92	3 16 1	4 3 4
*New South Wales 5% 1945-65	JD	106	4 14 4	4 6 11
*New Zealand 4½% 1948-58	MS	104	4 6 6	4 2 9
*New Zealand 5% 1946	JJ	108	4 12 7	4 2 9
*Queensland 4% 1940-50	AO	101	3 19 2	3 16 7
*South Africa 5% 1945-75	JJ	111	4 10 1	3 16 8
*South Australia 5% 1945-75	JJ	106	4 14 4	4 7 0
Tasmania 3½% 1920-40	JJ	98	3 11 5	3 17 1
Victoria 3½% 1929-49	AO	94	3 14 6	4 0 2
*W. Australia 4% 1942-62	JJ	100	4 0 0	4 0 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	84	3 11 5	—
Birmingham 4½% 1948-68	AO	112	4 0 4	3 9 3
*Cardiff 5% 1945-65	MS	110	4 10 11	3 18 9
Croydon 3% 1940-60	AO	93	3 4 6	3 8 0
*Hastings 5% 1947-67	AO	114	4 7 9	3 14 0
Hull 3½% 1925-55	FA	98	3 11 5	3 12 8
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	98	3 11 5	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	71½	3 9 11	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	84	3 11 5	—
Manchester 3% 1941 or after	FA	84	3 11 5	—
Metropolitan Consd. 2½% 1920-49	MJSD	92	2 14 4	3 2 11
Metropolitan Water Board 3% "A" 1963-2003	AO	86	3 9 9	3 10 10
Do. do. 3% "B" 1934-2003	MS	87	3 9 0	3 10 0
Do. do. 3% "E" 1953-73	JJ	93	3 4 6	3 6 5
*Middlesex C.C. 3½% 1927-47	FA	100	3 10 0	3 10 0
Do. do. 4½% 1950-70	MN	113	3 19 8	3 9 5
Nottingham 3% Irredeemable	MN	84	3 11 5	—
*Stockton 5% 1946-66	JJ	112	4 9 3	3 16 2
ENGLISH RAILWAY PRIOR CHARGES				
Gt. Western Rly. 4% Debenture	JJ	100¼	3 19 7	—
Gt. Western Rly. 5% Rent Charge	FA	116½	4 5 10	—
Gt. Western Rly. 5% Preference	MA	97½xd	5 2 7	—
‡L. & N.E. Rly. 4% Debenture	JJ	94	4 5 1	—
‡L. & N.E. Rly. 4% 1st Guaranteed	FA	80xd	5 0 0	—
‡L. Mid. & Scot. Rly. 4% Debenture	JJ	96	4 3 4	—
‡L. Mid. & Scot. Rly. 4% Guaranteed	MA	87xd	4 11 11	—
Southern Rly. 4% Debenture	JJ	101	3 19 2	—
Southern Rly. 5% Guaranteed	MA	111xd	4 10 1	—
Southern Rly. 5% Preference	MA	93½xd	5 0 6	—

* Not available to Trustees over par.

† In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date ; in the case of other stocks, as at the latest date.

‡ These Stocks are no longer available for trustees, either as strict Trustee or Chancery Stocks, no dividend having been paid on the Companies' Ordinary Stocks for the past year.

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